

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

GRADUAL TAYLOR,	:	CASE NO. C-1-02-446
Plaintiff,	:	(Judge Weber) (Magistrate Black)
v.	:	
CHERYL HART,	:	<u>POLICE OFFICER CHERYL HART'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT</u>
Defendant.	:	

The ground for Police Officer Hart's motion for partial summary judgment is that the plaintiff did not state or prove a federal malicious prosecution claim against Officer Hart upon which relief can be granted. Furthermore, even assuming *arguendo* that the plaintiff had stated a federal malicious prosecution claim against Officer Hart, or created a genuine issue of material fact in support of that claim, the claim is nevertheless barred by the statute of limitations.

Plaintiff's memorandum in opposition does not refute the grounds for Officer Hart's motion for partial summary judgment. She was not involved in the decision to prosecute the plaintiff. Under the authority cited in Officer Hart's motion, and the uncontested facts established by her affidavit and the plaintiff's deposition, Officer Hart cannot be sued for alleged malicious prosecution. Furthermore, Officer Hart completed a criminal complaint form against the plaintiff more than two years prior to the filing of the case at bar. The claim is barred by the statute of limitations. There are no genuine issues of material fact. Officer Hart's motion for partial summary judgment is meritorious and should be granted and the complaint against her should be dismissed.

Respectfully submitted

JULIA L. MCNEIL(0043535)

City Solicitor

/s/ Richard Ganulin

RICHARD GANULIN (0025642C)

Assistant City Solicitor

Room 214, City Hall

801 Plum Street

Cincinnati, Ohio 45202

Telephone: (513) 352-3329

Fax: (513) 352-1515

richard.ganulin@cincinnati-oh.gov

Counsel for Police Officer Hart

/s/ Donald E. Hardin

DONALD E. HARDIN (0022095)

KIMBERLY A. RUTOWSKI (0076653)

Hardin, Lefton, Lazarus & Marks, LLC

915 Cincinnati Club Building

30 Garfield Place

Cincinnati, Ohio 45202-4322

Telephone: (513) 721-7300

Fax: (513) 721-7008

donhardin@hllmlaw.com

krutowski@hllmlaw.com

Special Counsel for Police Officer Hart

CERTIFICATE OF SERVICE

I hereby certify a true and accurate copy of the foregoing Police Officer Cheryl Hart's Reply Memorandum in Support of Motion For Partial Summary Judgment was filed electronically this 23rd day of July, 2007. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Richard Ganulin

RICHARD GANULIN (0025642-C)

JLM/RG/(smw)

Gaylor-Hart's Mtn Reply Memo PSJ 207-RG